

REMARKS***Status of Claims and Request for Rejoinder of Method Claims***

Claims 1-6 and 20-23 were pending in the present application. Claims 7-19 and 24-27 were withdrawn from consideration. By virtue of this response, claims 1, 7 and 26 have been amended and claims 28-40 are new claims. Support for the new and amended claims can be found throughout the specification, including the claims, as originally filed and particularly on page 3, page 5, line 33 through page 8, line 17; Table 1; page 10; and in the Examples, particularly page 24. Amendment of claim 26 represents correction of obvious typographical errors and, as such, does not constitute new matter. No new matter is believed to have been added.

With respect to claim amendments, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Applicants respectfully request rejoinder of the withdrawn method claims 7-19 (directed to methods of making the claimed complexes) and 24-27 (directed to methods of using the claimed complexes) upon allowance of the elected product claims, in accordance with MPEP §821.04 (“Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. . . . However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.”). Independent method claim 7, and therefore its dependent claims 8-19, have been amended to incorporate all of the limitations of product claim 1. Claims 24-27 as originally filed ultimately depend from product claim 1 pending in the instant application. Applicants therefore respectfully request rejoinder of these method claims upon allowance of the product claim whose limitations they incorporate

(claims 7-19) or from which they depend (claims 24-27) and further request that these method claims and new method claims 35-40 be examined for patentability in accordance with 37 C.F.R. §1.104 upon allowance of the product claims.

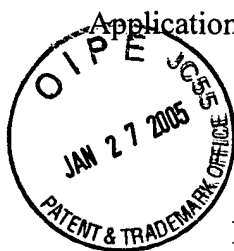
Rejections under 35 U.S.C. 103(a)

While the Applicants do not agree with the basic assertions put forth by the Examiner with respect to the rejections under 35 U.S.C. §103, in the interests of efficiently moving the prosecution of the present application forward, Applicants provide the comments appearing below.

Claims 1-6 and 20-23 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Jamison (USPN 6,323,176) for the reasons of record. The Applicants respectfully traverse the rejection.

As stated in previous responses the Applicants note that the compounds described and claimed in Jamison are characterized by the carbohydrate moiety being covalently bound to the echinocandin molecule at position R⁵ (which is included in, but does not directly correspond to, substituent R⁸ of the present application), while the claims as amended in the present application are drawn to echinocandin/carbohydrate complexes in which the carbohydrate is released upon dispersion of the of the complex in water. As is clear to those of skill in the art, the compounds of Jamison, in which the carbohydrate is covalently bound to the echinocandin, will not release carbohydrate upon dispersion in water.

In view of the amendments and remarks presented above the Applicants respectfully request withdrawal of the rejection of claims 1-6 and 20-23 under 35 U.S.C. 103(a).

CONCLUSION

In view of the above, each of the presently pending composition claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the composition claims and to rejoin the withdrawn method claims upon allowance of the composition claims and examine the rejoined claims in accordance with 37 C.F.R. §1.104. It is believed that the new method claims and those requested to be rejoined are also in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is earnestly invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **342312003801**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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